



**CORAL TRIANGLE
INITIATIVE**
ON CORAL REEFS, FISHERIES AND FOOD SECURITY



INFORMATION PAPER FOR THE WESTERN PROVINCIAL GOVERNMENT: ENFORCING AND ENSURING COMPLIANCE OF MARINE LAWS AND COMMUNITY BASED MARINE PROTECTED AREAS



October 2013

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I. INTRODUCTION

The purpose of this document is to provide the Western Provincial Government with useful information to enable enforcement of marine protection laws and support community-based Marine Protected Areas. This document outlines key enforcement issues for Solomon Islands, and how relevant national, provincial, and customary law applies to community compliance and enforcement.

The Solomon Islands government looks largely to community-based solutions for national resource management. This is due to poor operational linkages between governance at the community, provincial and national level and insufficient capacity in national and provincial governments. Further, the majority of land in the Solomon Islands is under customary landownership and customary landowners have the right and are best placed—to make management decisions.

Community-based resource management (CBRM) is a mechanism for communities to contribute to safeguarding their future and the future of their resources in the face of climate change as well as the many other types of external change (economic, demographic, development, technological, communication) that they face on a daily basis.

Marine Protected Areas (MPAs) or Locally Managed Marine Areas (LMMAs) are tools that communities can use to protect their resources (Govan et al. 2008). An LMMA is a marine and coastal area that is designated by a local community for management of marine resources. A managed area will have a boundary as well as management rules that operate within that area. LMMAs are the most common form of marine resource management in the Solomon Islands (WorldFish 2013). In Solomon Islands, an MPA is a term used to refer to an area that has been set aside as “no-take”: there are restrictions on the harvest of marine resources in that area. MPAs are usually established by communities to protect certain areas, the species that occur within them, as well as social and cultural values.

With the support of the USAID-funded Coral Triangle Support Partnership (CTSP), five new community-based MPAs have been established in the Gizo area through a partnership between WWF, Gizo communities, and the Provincial Government. The MPAs are intended to be registered under the national Protected Areas Act (2010) (the PA Act) to provide the community with a legal mechanism through which to manage and enforce their MPAs. The boundaries of each of the MPAs will be marked by a series of large demarcation buoys. There will also be signs of the MPAs in public areas (including Gizo market) so that people in the area are aware of the MPAs, their location, and their purpose. These MPAs are likely to be the start of many community initiatives to legally protect their resources.

The MPAs have been established by the communities as areas, which incorporate values, they wish to legally protect and manage. The values include species and their habitats, and also social and cultural values. As required under the PA Act, a management plan has been prepared for each area, which details the values of the area and the objectives and management actions required to protect the area. While the

objective of each community Management Plan varies, generally there are common management actions, including:

- Minimizing illegal fishing/hunting in “no-take” zones
- Reducing harvest pressure on species within the MPA
- Protecting threatened species (e.g., turtles) within the MPA
- Protecting habitats within the MPA from destructive harvesting
- Creating opportunities for ecotourism
- Creating opportunities for alternate livelihoods (aquaculture)

Each of the management plans has a section on the rules and regulations developed by the communities. However the management plans should all comply with the requirements/restrictions under both the national and provincial laws.

Report structure

The remainder of this document is structured to provide information to the Western Provincial Government on:

- The key compliance and enforcement issues for marine offenses and community based MPAs in the Western Province;
- The community management plans including compliance/enforcement programs and complementarity with other legislation; and
- The potential role that the Provincial Government can play in supporting marine enforcement and compliance programs for Western Province

2. COMPLIANCE AND ENFORCEMENT ISSUES

As part of the MPA management plan, communities develop a compliance and enforcement plan. The steps that communities use to develop these are provided as the Compliance and Enforcement Framework in [Appendix A](#).

The public will comply with MPA rules and regulations when they understand and accept these rules (Pomeroy et al. 2013). However, managers will also need to enforce penalties upon those who do not comply with the MPA rules and regulations. Enforcement systems aim to increase compliance with rules and punish those who are doing prohibited activities (Bergh and Davies 2001). By increasing the level and likelihood of penalties, enforcement systems deter users from breaking rules (Oposa 1996).

In developing a compliance and enforcement plan for MPAs it is important to balance the two components. To do this, communities or resource managers must make compliance a preferred outcome (rather than just relying on enforcement actions). To have high levels of compliance, communities need to identify what the usual drivers (reasons) are for people breaking the rules.

2.1 Non-compliance in Solomon Islands

A study by Pomeroy et al., (2013) found the most common drivers of non-compliance in MPAs in the Solomon Islands are:

- Lack of awareness and understanding about the protected area or rules;
- Food or cash requirements;
- Lack of respect for local/traditional rules;
- Disagreement or disputes of rights and rules (e.g., ownership); and
- Destructive fishing techniques.

The same study reported local compliance capacity needs in the Solomon Islands as:

- Increased enforcement capacity;
- Increased awareness-raising at local community level (about resource rules and penalties);
- Improved leadership and community-based management training (promote local respect);
- Requests to government to improve or strengthen existing legislation;
- Need for strategic inputs to enhance compliance;
- Support national policy to increase reach into all rural areas;
- Provide basic problem/solution oriented training and information to people to provide training to all rural communities as cost effective investment;
- Communications training; and
- Training on participatory identification of compliance issues and root causes at the community level.

2.2 Compliance in Solomon Islands

Mechanisms currently used to promote MPA compliance in the Solomon Islands include:

- Local social measures, including community fines and penalties;
- Social marketing: encouragement of local respect for local community and traditional leaders;
- Government authority involvement e.g., provincial fisheries officer or local police;
- Education, including explanation of neighboring tambu or LMMAs; and
- Fines levied against violators, especially foreign fishers.

Pomeroy et al., (2013) found that the reported successful compliance factors in the Solomon Islands included:

- Community motivation - a locally-identified and widely shared concern over resource issues;
- Community driven - the process, impetus, and pace should be locally determined ensuring all parties are involved and comfortable;
- Access to a minimum of essential information - this should relate to causes and effects of community - identified problems and potential practical solutions including potential experiences from similar villages;
- Practical and effective community actions - community compliance is secured or reinforced when impacts of management are locally - observed;
- Strong community support for the designated management body;
- Church involvement for discussions of progress and support of management strategies;
- Presence of functioning telecommunications or radio programs;
- Active engagement by provincial fisheries officers and opportunistic support from NGO staff; and
- Exchange of experiences and information through local networks and other mechanisms (National, provincial and NGO networks, church, medical, police).

3. COMPLIANCE AND ENFORCEMENT OF COMMUNITY MPAS

When the reason for non-compliance is understood, communities (managers) can develop a compliance and enforcement plan that addresses these issues. The Compliance and Enforcement Framework (Appendix A) is designed to identify what the key issues are, and target these with specific actions. It was designed using MPA Management Principles (MPACA 2008), and also meets the criteria set by Bergh and Davies (2001). The intent was that it would be accountable, legitimate, equitable, and flexible.

The enforcement recommendations are most relevant to MPAs created under the PA Act, as there are often limited legal mechanisms for MPA compliance under Provincial Ordinances as discussed below. However, the broader compliance and education principles in this paper apply to any MPA. It should be noted that under the Provincial Ordinances specific marine offenses are prescribed, and that many of these apply regardless of whether they occur within or outside a protected area.

3.1 National and provincial legislation

There are a number of ways that communities can develop, designate and implement a MPA in the Western Province under both national and provincial legislation. A brief description of these is provided below (and some Frequently Asked Questions (FAQs) and answers regarding this provided in Appendix B). The Management Plans (and their associated compliance and enforcement plans) have been developed to comply as much as possible with each piece of legislation described below. This is to ensure communities have a mechanism to implement and manage their MPAs, even in the interim and before they are registered under the Protected Areas Act.

The Protected Areas Act 2010 and Protected Areas Regulations 2012 (the PA Regulations)

The PA Act and its related PA Regulations form is national legislation that provides for the establishment and management of protected areas in the Solomon Islands. The PA Regulations prescribe the enforcement rules and regulation (penalties) that occur under the PA Act. Rangers (or enforcement officers) from communities can be designated under the PA Act to enforce the rules and regulations set out in a community Management Plan. A breach of the PA Act and PA Regulations is considered a prosecutable criminal offense.

Western Province Fisheries Ordinance 2011 (the WPFO)

The WPFO is an ordinance primarily for the purpose of the appropriate management of fishery and marine resources in the Western Province. In addition to creating a number of general marine offences, it provides for the creation of Marine Protected Areas (with some additional offences relating to such Marine Protected Areas).

The WPFO has provisions to create an MPA and also for enforcement of the ordinance (including the limitations of take in an MPA). However, enforcement officers need to be appointed by the Provincial Government, and only the prohibitions in the WPFO can be enforced. Unfortunately, the WPFO is not as detailed as the PA Act, and there are fewer penalties prescribed and no penalties for MPA-related violations).

Western Province Resource Management Ordinance (WPRMO) 1994

The WPRMO is also a provincial law, which prohibits the taking of specific marine and forest resources and provides for their protection.

The WPRMO also provides for the declaration of Customary Land Management Orders (CLMA), which is a resource order applying to a particular area of customary land and providing for prohibition and/or protection of resources on that land. To use this provincial ordinance to register CLMA, communities must be able to demonstrate customary ownership and the boundaries of the customary land must be clearly defined. There are often disputes as to customary land ownership, boundaries and customary management principles, and for this reason it could prove to be a lengthy process and therefore may not be a suitable mechanism for communities to use to manage and enforce their MPAs. An offence under the WPRMO is a criminal offence.

Customary law

All of the above legislation have provisions to recognize customary fishing, but customary law on its own is not legally enforceable by legally appointed enforcement officers. There may, however, be customary penalties enforceable under customary law. This would vary from one customary area to another.

Precedence and relationships between legislation

The PA Act and PA Regulations provide the most comprehensive powers for compliance and enforcement of marine offences and management of Marine Protected Areas.

Section 31 of the WPFO refers to the PA Act and provides for the registration of an MPA in the Province and then a referral under the PA Act. In such cases the MPA would be declared under both the WPFO and the PA Act, and the provisions of the PA Act would also apply to the MPA.

The WPFO also defers to national legislation with the following sections.

- (1) *In the interests of clarity it is hereby declared that this Ordinance shall in no way be read to derogate from any Acts but seeks to act in a complementary manner especially where other laws seek to protect species or resources.*
- (2) *Compliance with the requirements of this Ordinance shall not absolve a person from compliance with any Act of Parliament.*

3.2 Options for enforcement of community MPAs

Until the MPAs are formally registered under the PA Act (i.e., the Management Plan Review Committee has been established and approved the community management plans, and the Minister has declared the MPAs to be protected areas), communities and the Provincial Government will need to rely on the WPRMO and WPFO to create, manage and enforce breaches of marine law and management of MPAs in the Western Province.

However, under the WPFO communities will have limited enforcement powers over their MPA unless:

- A community member is designated as an enforcement officer by the Provincial Government (under s36 of the WPFO). In this case only the restrictions under the WPFO can be enforced (as per section 30 and 32 of the WPFO – e.g., no taking of fish or other species in an MPA, and mangrove protection). There is currently no prescribed penalty (fine) for breaking MPA restrictions. However there is a \$1000 fine for damaging mangroves. The WPFO provisions are not likely to cover all the rules and regulations of a MPA management plan (as required under the PA Act). Also any offence is not a criminal offense (but rather just a fine) and currently there are limited penalties prescribed.
- Communities can also try to get their customary land subject to a Customary Land Management Order under the WPRMO, and then an offense can then be recognized as a criminal offense that can be prosecuted. However as noted above this may be a lengthy process.

3.3 Compliance and enforcement by communities

The enforcement of rules and penalties detailed in the respective community MPA management plans are largely reliant on a community registering their MPA under the Protected Areas Act (2010) and using the Protected Areas Regulations (2012), as this legislation provides the most significant self-enforcement powers to communities.

Under the PA regulations a community ranger (enforcement officer), with written approval of the Minister, may be appointed as an Inspector with power to issue infringement notices. The enforcement powers that may be assigned to a Ranger are set out in Section 66 of the Regulations. 1996; 6:273-291.

Pomeroy, P., J Parks, K Flower, M Guidote, H Govan, and S Atkinson (2013). *Status and needs to build capacity for local compliance and community-supported enforcement of marine resource rules and regulations in the Coral Triangle region*. In prep for submission to: Marine Policy.

Table I. Overlap of sections of legislation relevant to Marine Protected Areas and compliance programs.

	Western Province Fisheries Ordinance	Western Province Resource Ordinance	PA Act	PA Regs.
Prohibition of harvest of resources using scuba	16	16 19		
Customary fishing rights	18			44 (1)
Prohibition live coral collection	20	16		50
Protection species reproduction	22	Part 3 (6)		
General protection species	23	Part 3 (7)	62	
Marine Protected Areas	27 – 31	Protection under resource order 13 (A)	Part 3 (10,11,12)	
Management Plan	N/A	N/A	Part 3 (10)	
Enforcement	35	Part 5 (2)	Part 5 (22)	66 (part 12)
Penalties	None for MPA violations. Fines for some things like removal of mangroves and pollution.	Penalties	N/A	Schedule 2 and 4

4. WESTERN PROVINCIAL GOVERNMENT'S ROLE IN SUPPORTING ENFORCEMENT AND COMPLIANCE PROGRAMS FOR WESTERN PROVINCE MPAS

Over the past decade, communities have begun to recognize that they cannot promote local compliance or effectively enforce locally without coordinating closely with both local and national government (Pomeroy et al., 2013). For this reason **Provincial Government support to communities is critical to ensure the success of their compliance and enforcement efforts, and ultimately, their MPAs.**

The study by Pomeroy et al (2013) made a number of recommendations to improve compliance and enforcement in Solomon Islands. They provide an excellent reference for Western Provincial Government and are presented here (below), with locally relevant minor additions:

Recommendations for Solomon Islands from Pomeroy et al. (2013)

- Inform local communities and user groups of national and provincial laws and regulations related to marine resources (including Protected Areas Act, Fisheries Act; Provincial ordinances);
- Educate local communities and user groups as to how such laws and regulations arise from causes of marine resource declines/destruction; and
- Link awareness-raising efforts locally to community-based management efforts and decision-making.

By encouraging this bottom-up approach, it is hoped to build public support for coral reef and marine resource rules and regulations, and therefore increase local compliance. It may also support local decision-making regarding the planning, review, and adaptation of community-based marine resource management plans. Strengthened institutional mandate at the national and provincial government levels is also required, and such capacity building would include:

- Strengthening government support systems to guide and support local compliance efforts, including increased number and presence of provincial law enforcement officers;
- Partnership creation between government and non-government of community-supported monitoring, surveillance, reporting, and enforcement systems that are appropriate, sustainable, and functional in the country context, particularly to address outside violators;
- Strengthening of the provincial law enforcement and judicial systems;
- Improved village court capabilities, including empowering local magistrates with enforcement-related duties; and
- Endorsement by provincial government of community-supported enforcement efforts, including through official agency recognition (via internal agency memorandum) and training of local rangers in monitoring, surveillance, and reporting.

5. SUMMARY AND NEXT STEPS

Provincial Government support to communities is critical to ensure the success of their compliance and enforcement plans, and ultimately, their MPAs. As communities develop and register their MPAs, the Provincial Government should be provided a copy of the management plan, and associated compliance-monitoring program. By familiarizing themselves with the management plans, and key objectives, the Provincial Government can better understand how best to support communities in managing the natural resources of the Western Province.

If a MPA is registered initially under provincial law (e.g., the WPFO) the Western Provincial Government has an important role to play in compliance and enforcement. In the absence of provincial enforcement officers, it is important that the Western Provincial Government designate community members as enforcement officers to help enforce MPAs.

The Western Province communities and Government would benefit significantly in the creation of a **Provincial Education and Enforcement Officer**. The role could be dedicated to supporting communities with implementing their management plans and the associated compliance and enforcement efforts.

Some key tasks of this role would include:

- Awareness raising in the community about the MPAs (a comprehensive education and awareness raising program is also essential to build voluntary compliance)
- Compliance training for communities
- Compliance monitoring with communities
- Resource monitoring

One of the objectives of community-based compliance is to collect data to improve understanding of the issues and rates of compliance. This information will be shared with the Provincial Government and can be used to assist them in selecting strategies to address key issues.

Developing alternate livelihoods, or engaging an officer to undertake this role is another mechanism the Provincial Government can consider as part of compliance and enforcement.

REFERENCES

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APPENDICES

Appendix A

Developing a Community-based Compliance and Monitoring Program - a Framework

*The sections of the Community-based Compliance and Monitoring Program that relate/comply with the PA Act and Regulations are illustrated in bold.

1. Identify stakeholders (community members, adjoining communities, church leaders, provincial government, national government, business interests (including fishing and tourism), law enforcement, and NGOs).
2. Wherever possible, in order to improve compliance, involve all stakeholders in the design and development of the MPA, as well as the development of the compliance and monitoring program. **44(1)**
3. Partner with the provincial government (and ensure compliance with relevant provincial ordinances).
4. List the objectives of the MPA (this is important and should be included in the management plan). **23**
5. Raise awareness and develop a regular education schedule (in schools and to stakeholders and community) regarding:
 - a. The purpose/goals of the MPA as stated in management plan
 - b. The boundaries of the MPA; **Part 3 (13) & S 44**
 - c. The proposed benefits of the MPA (e.g. MPAs will protect resources for future use; MPAs have also been shown to benefit areas outside of the MPA, etc.)
 - d. The consequences/penalties for breaking rules; **S 23 1(b) and (j)**
6. Encourage stewardship (community responsibility for the MPA's success); remind community of the benefits to them (incentive).
7. As a community, determine which activities are allowed and which are prohibited.

8. Agree on the penalties (with stakeholder support); **S63**
 Note: The PA Regulations prescribe maximum penalties under the PA Act Schedule 4 (Appendix B). *There may also be penalties under relevant Provincial Ordinances.* The community may decide to use a tiered approach to offences (see the TDA example penalties, Appendix C).

9. Identify key threats and potential impacts to protecting resources by conducting a risk assessment. For example:
 - a. What group(s) is/are likely to break the rules?
 - b. Which areas are more vulnerable (e.g. those with easy access, difficult to patrol)?
 - c. Are there times of the year that are higher risk (e.g. festivals)?
 - d. Are people fishing/hunting at night?

10. Identify why people might be breaking rules (illegally fishing):
 - a. Lack of understanding
 - b. Cash or food requirement
 - c. Other

11. Identify solutions to address these threats:
 - a. Education program
 - b. Alternative livelihoods
 - c. Strengthen community structure

12. Develop a monitoring, compliance, and enforcement program that:
 - a. Specifies who is responsible
 - b. Outlines the means of enforcement
 - c. Details the penalties for non-compliance

13. Identify Community Conservation Officers (COOs)/Rangers; **Part 2.**

An 'enforcement officer' can also be designated under the Western Province Fisheries Ordinance.

- a. Develop a CCO/Ranger Manual that details how, when, and where to patrol (e.g. TDA example, Appendix D)
- b. The CCO/Ranger should have authority to issue warnings and penalties

NOTE: Under the PA Regulations (**S65 & 66**) a Ranger, with written approval of the Minister, may be appointed as an Inspector with power to issue infringement notices. (How a management committee will enforce the regulations should be considered and detail included in the management plan). The enforcement powers that may be assigned to a Ranger are set out in **S66** of the Regulations.

14. Develop a regular monitoring patrol, which includes education and compliance components:
 - a. Have a regular presence (three times a week patrols, opportune times, high risk – night time, seasons)
 - b. Patrols should be used as an opportunity to inform people of the rules (not just those breaking them)
 - c. Make sure there is an effective reporting mechanism (telecommunications/ radio)

15. Collect data
 - a. Collect and record information on what is being harvested; (TDA example resource data – Appendix E)
 - b. Record and review the data regularly to look for trends (and to allow review)

16. Monitor and assess
 - a. Each year, review the compliance monitoring data that has been collected.
 - b. Are the management objectives being met? (Reduced pressure? Increased stocks? Increased awareness?)
 - c. Are compliance levels going up or down?
 - d. Is education and enforcement working?
 - e. What are the resources doing (see Goby (2013) Guidelines for Community-based Resource Management)

17. Report results, **S24 (2)**
 - a. To the community and adjoining communities
 - b. To NGOs
 - c. To Provincial Government

Appendix B

‘How to protect special places on your land and sea in the Western Province’, Landowners’ Advocacy and Legal Support Unit, Public Solicitor’s Office, Solomon Islands

What are protected areas?

Many communities already have traditional protected areas or tambu sites on land and sea, and have a great deal of knowledge about managing these areas and their resources. There are also some laws that allow the community, non-government organisations (NGOs) and the Government to protect and manage special places on land and sea as “formal protected areas”. Legally protected areas can help to support the traditional system, especially for serious infringements; and can provide a tool to formalise and enforce rules and community rights. There are several national and provincial laws available for protecting land and sea in the Western Province.

I. Protected Areas Act (national)

It is the responsibility of the management committee for the protected area to oversee the preparation of the management plan, and appoint someone to take on the role of project manager. It is the project manager’s job to ensure that the preparation of the plan is well coordinated and resources are used effectively. The project manager may also be the person responsible for writing the plan. The project manager may be someone from within the local community, or the committee may choose to look for assistance from an outside organization that specializes in protected area management and has experience in the preparation of plans.

What is the process for customary owners wanting to apply for protection?

Step I: The landowners carry out consultations

- Consultations must be held within the landowning tribe to reach a consensus or resolution about listing the area as a Protected Area.

- The tribal leader must then notify the leaders of all neighbouring tribes and communities of their plans and hold village meetings with them to get wider support for their plans.
- The tribal leaders of the landowning tribe and the leaders of neighbouring tribes (where appropriate) must sign a written agreement about the proposal, including a map showing the proposed boundaries of the Protected Area.

Step 2: The Director establishes a management committee

- Members of the management committee can include community members and landowners.
- The committee can be established after the Director seeks written nominations from the community, or once an existing management arrangement is recognised by the Director.

Step 3: The management committee develops a management plan

- The management committee must prepare a management plan for the proposed Protected Area. It will include rules for the Area and exemptions from the broad prohibitions in the Act.
- The management plan needs to be consistent with the objectives of the Act and the type of Protected Area that the area is going to become.
- It needs to contain some specific information such as zoning; what activities are restricted; implementation, enforcement and public awareness programs; and proposed penalties.
- When preparing the plan, the management committee should consult with customary owners, local communities, NGOs, chiefs and traditional leaders, and the Government.

Step 4: The landowners submit an application to the Director

The application must include an application form, the management plan, the agreement between the landowners and the neighbouring tribes (including a map of the boundaries of the area).

Step 5: The Director carries out consultations

The Director must do various things including meeting and consulting with landowners and other people affected by the Protected Area, verifying who has rights and interests in the area, carrying out a field study, and putting a public notice about the proposed area in a newspaper.

Step 6: People write to the Director either supporting or objecting to the proposal

The timeframe that people have to write to the Director about the proposed Protected Area will be set out in the newspaper notice (see Step 5). It must be at least 30 days.

Step 7: The Director makes a recommendation and the Minister decides whether to declare the area to be a Protected Area.

The area can only be declared as a Protected Area if it meets one of the four criteria specified in the Act, such as:

- It has significant cultural or biological resources, or
- It contains the habitat of plants or animals of national or international importance.
- If the boundary of the area is in dispute the area cannot be declared.

What can people do in a Protected Area and what can't they do?

Activities that may damage the environment such as large-scale logging and mining, dragging nets on the sea floor, or discharging waste or pollution into marine protected areas, are prohibited.

Other activities are prohibited unless they are authorised in the management plan or by the management committee. These include agriculture, hunting, taking firewood, removing live coral, and building. In some Protected Areas, sustainable use of resources by landowners is allowed. A breach of these is an offence, so they can be enforced by the police and in court.

The management plan will include exemptions to the activities prohibited above and any other rules about what activities are restricted in the Protected Area, and what penalties will apply.

How are the rules enforced?

Inspectors and rangers can be appointed to enforce the rules. You can also get help from the police and apply to the Director for help with a court order.

- Inspectors can do a range of things, such as assisting in management and protection, and issuing infringement notices.
- Rangers need to be over 18 and be a member of the local community or tribe or working for the NGO managing the area. They can do things such as board and search vessels, seize specimens or equipment used in an offence, require a person to rectify a minor breach of the Act or a permit, and order a person to stop doing an activity.

2. Western Province Resource Management Ordinance

This Ordinance allows for the creation of Customary Land Resource Management Orders, which provide for the protection of natural resources in a particular area of land and/or sea.

What is the process for customary owners wanting to apply for protection?

Step 1: The landowners make a request to the Provincial Executive

The applicants must submit an application form, a map with the proposed boundaries, details on what can or cannot be done in the area, and other details such as what plants and animals need special protection. The application can only be made by all people (or their representatives) who are entitled to make rules for the area according to customary law.

Step 2: The Provincial Executive endorses the request

This needs to do this within one month of the Provincial Executive receiving the request, if all procedural requirements have been met.

Step 3: The Provincial Executive notifies the public and public makes objections

If someone thinks that the people who made the request are not the true customary landowners, they can write a letter of objection to the Appropriate Committee, Provincial Secretary and the applicants. This must be done within one month of the person getting notice.

Step 4: The Appropriate Committee (and potentially the Local Court) hold a hearing

If a person lodges an objection, the Committee will decide whether the applicants are the true customary landowners of the land. If the applicants disagree with the decision, they can appeal to the Local Court.

Step 5: The Provincial Executive makes the Order by publishing it in the Gazette

The Provincial Executive can only do this if the applicants have been found to be the persons who are entitled to make rules for the area according to customary law.

What can people do in a Protected Area and what can't they do?

It depends on what rules are set out in the Order. The Order can prohibit or restrict certain activities. Under the Order it may be permissible to take certain plants and animals for purposes such as food or custom. A breach of any rule is an offence, which means the police can help enforce them.

3. Western Province Fisheries Ordinance

This Ordinance provides for the establishment and management of Marine Protected Areas ("MPA") over any area of Provincial waters and adjoining land.

What is the process for customary owners wanting to apply for protection?

Step 1: Customary group or NGO submits application to the Provincial Minister of Fisheries

It needs to be in writing and include the reasons for why the group wants the area protected. The application should indicate the area deserves special protection because of at least one of these reasons:

- The biodiversity of an area needs to be monitored and protected;
- It is an area of significant biodiversity that is at risk; and/or
- Certain species within the area are considered to be at risk .

If a customary group needs help preparing the application it should approach the Provincial Secretary who will find an NGO to help.

Step 2: Provincial Executive carries out consultation and negotiates landowner consent

- A marine protected area can only be declared if the customary groups consents.
- If a group other than a customary group has applied for the marine protected area, the Provincial Executive must discuss and negotiate the proposal with the relevant customary groups.
- Consent can be given by the customary groups with conditions (e.g. that traditional fishing practices may continue).

Step 3: Provincial Minister of Fisheries makes a recommendation to the Provincial Executive, and the Provincial Executive decides whether to declare the MPA

What can people do in a Marine Protected Area and what can't they do?

Unless conditions have been agreed to for the establishment of the Area, people are not allowed to do the following in a marine protected area: fish or hunt any specimen or fish, collect coral or shells, disturb any wreck, dredge or quarry any sand, mud or rocks, discharge any polluting substance; otherwise disturb the ecology of the area, or construct any building or jetty (without authorisation).

Breach of these rules is not an offence, so they can be difficult to enforce for the police or in court.

Other questions?

Please contact us on lalsu@psu.gov.sb or the following if you need further information or advice.

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